



Federal Communications Commission
Washington, D.C. 20554

April 27, 2007

DA 07-1934
In Reply Refer to:
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Mr. Mark E. Kaup
Faith Music Ministries, Inc.
3207 Chatfield Place
Wichita, KS 67208

In re: Faith Music Ministries
(New) LPFM, Derby, Kansas
Facility ID: 125795
File No. BNPL-20000830ABC

**Application for LPFM New Station
Construction Permit**

Dear Mr. Kaup:

We have before us the captioned application of Faith Music Ministries, Inc., ("FMM") for a construction permit for a new low power FM ("LPFM") station in Derby, Kansas. For the reasons set forth below, we dismiss FMM's application.

Background. FMM initially applied for a construction permit for a new LPFM station in Wichita, Kansas, on August 30, 2000. On October 29, 2002, FMM filed an amendment to the application, proposing to construct the LPFM station in Derby, Kansas, instead of Wichita (the "2002 Amendment"). Although this amendment proposed a move of the transmitter site of more than two kilometers, it was filed during a window in which LPFM applicants were permitted to make major or minor amendments to resolve third-adjacent channel short spacings.¹ On March 13, 2003, FMM filed a further amendment to its application reflecting a change in the parties to the application (the "2003 Amendment"). On March 17, 2003, the National Lawyers Guild Center on Democratic Communications ("NLG") filed an Informal Objection ("Objection") alleging that the application should be dismissed because: (1) FMM's headquarters is located more than 10 miles from the proposed transmitter site; (2) fewer than 75 percent of FMM's board members reside within 10 miles of the proposed transmitter site; (3) FMM's 2003 Amendment adds additional board members and should be considered an impermissible major amendment to the application under Section 73.871 of the Commission's Rules (the "Rules");² and (4) FMM's corporate status has been forfeited, thus making it ineligible to hold an LPFM license. On March 27, 2003, FMM filed an Opposition to NLG's Objection.

Discussion. *Local Applicant Requirement.* Section 73.853(b) of the Rules states that only local applicants will be permitted to apply for an LPFM station during the first two years after the service is

¹ See "Media Bureau to Open Low Power FM Major Amendment Window from October 28, through November 1, 2002, for Certain Pending New Station Applications," Public Notice, DA 02-2178 (Sept. 9, 2002).

² 47 C.F.R. § 73.871.

made available. An applicant is considered local if: (1) the applicant is physically headquartered within ten miles of the proposed transmitting site; or (2) 75 percent of its board members reside within ten miles of the proposed transmitting site.³ Because FMM submitted its original application within the first two years of the LPFM service, it must qualify as a local applicant by meeting one of these requirements.

FMM is not a local applicant. Its headquarters is located more than ten miles from the proposed transmitter site and fewer than 75 percent of FMM's board members reside within ten miles of this proposed site. Of the five FMM members listed in the 2002 Amendment, two reside within ten miles of the proposed transmitter site, two reside further than ten miles of the site, and one uses a P.O. Box, rendering a distance calculation impossible.

Section 73.853(b) of the Rules states that applicants applying within the first two years of the LPFM service must be local applicants. Because FMM filed its application within this two-year period, this limitation applies to its proposal. The Commission chose the ten-mile limitation imposed by the rule to facilitate a licensee's "local familiarity" because the LPFM service is designed to provide a community-based broadcast service.⁴ FMM cannot meet either requirement of Section 73.853(b) and, therefore, its application will be dismissed. Additionally, the 2003 Amendment will be dismissed as moot. Finally, because we dismiss FMM's application, we need not consider NLG's Informal Objection and will also dismiss it as moot.

Conclusion/Actions. Accordingly, IT IS ORDERED, that the application of Faith Music Ministries for a new low power FM station in Derby, Kansas (File No. BNPL-20000830ABC) is DISMISSED, its March 13, 2003, amendment is DISMISSED AS MOOT, and the Informal Objection of the National Lawyers Guild Center on Democratic Communications is DISMISSED AS MOOT.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: National Lawyers Guild Center on Democratic Communications

³ 47 C.F.R. § 73.853(b).

⁴ See *Creation of a Low Power Radio Service*, Report & Order, 15 FCC Rcd 2205, 2219 (2000).